

REMARKS

A. Background

Claims 40-51 were pending in the application at the time of the Office Action with claims 46-51 being withdrawn from consideration. The Office Action rejects claims 40-45 as being anticipated over cited prior art. By this response applicant has amended claims 40 and 45, cancelled claims 46-51 and added new claims 52-60. As such, claims 40-45 and 52-60 are presented for the Examiner's consideration in light of the following remarks.

B. Proposed Claim Amendments

Claim 40 has been amended to further clarify the invention and is supported by Figures 6 and 10 and the corresponding disclosure in the specification as originally filed. Claim 45 has been amended to be consistent with the amendments to claim 40. New claims 52-60 have been added and are supported by Figures 4, 6, and 10 and the corresponding disclosure in the specification as originally filed.

In view of the foregoing, applicant submits that the amendments to the claims and the new claims do not introduce new matter and entry thereof is respectfully requested.

C. Restriction Requirement

Paragraphs 1-5 of the Office Action request that applicant confirm the prior oral election to the restriction requirement. In response thereto, applicant hereby elects without traverse the Group I invention corresponding to claims 40-45. As such, applicant has herein cancelled claims 46-51. Applicant also submits that new claims 52-60 are readable on the elected invention and thus should be considered in the present application.

D. Rejection on the Merits

Paragraphs 6 and 7 of the Office Action reject claims 40-45 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,362,642 to Kern. Applicant respectfully traverses the rejection.

Kern discloses a multi-bag containment system 8 for use in storing, reconstituting, dispensing, and harvesting cell culture media. With reference to Figure 1, containment system 8 comprises an inner mixing bag 12 disposed within an outer storage bag 10. Inner mixing bag 12 is used for reconstituting powdered cell culture media. The reconstituted media is then transferred from inner mixing bag 12 to outer storage bag 10 with the cell culture media being sterilized by filter 40 as it travels therebetween.

More specifically, initially during use a powdered media and water are positioned within mixing chamber 14 of inner mixing bag 12. A peristaltic pump 24 draws air out of the top of mixing bag 12 through line 52 and then delivers the air to the bottom of mixing bag 12 through line 58 so that the resulting air bubbles mix the water and powdered media, thereby reconstituting the cell culture media. Once the media is reconstituted within inner mixing bag 12, a switch 54 is activated on line 52. Peristaltic pump 24 then draws the reconstituted media out of inner mixing bag 12 through line 58 and then passes the media through lines 56 and 64 and then into a fluid filter 40 through an inlet formed on fluid filter 40. After the media passes through filter 40 so as to be sterilized, the media exits filter 40 through an outlet on filter 40 and then passes through line 66 and into storage chamber 16 of outer storage bag 10. The sterile media can then be extracted from outer storage bag 10 through an outlet line 70.

It is noted that filters 40 used for filtering media are commonly known in the art. It is also known by those skilled in the art, however, that such highly specialized filters are intended to only operate in one fluid direction. That is, the media is filtered by passing the media through filter 40 from

the inlet of the filter to the outlet of the filter. One skilled in the art would not attempt to filter media by trying to pass media through filter 40 from the outlet to the inlet.

Initially, the Office Action asserts that the combination of outer storage bag 10 and inner mixing bag 12 corresponded to the claimed “flexible pooling bag.” Applicant has herein amended claim 40 to recite that the flexible pooling bag has “an interior surface bounding a single continuous compartment.” Since the chambers of outer storage bag 10 and inner mixing bag 12 are two separate and discrete chambers, applicant submits that the two separate chambers do not constitute a “single continuous compartment,” as recited in claim 40. As such, at most the “single continuous compartment” of the pooling bag of claim 40 can only potentially correspond to the compartment of one of outer storage bag 10 or inner mixing bag 12.

Claim 40 further recites “a filter having an inlet and an outlet, the filter being configured to filter fluid by passing fluid through the filter from the inlet to the outlet” and “a fluid line extending from the outlet of the filter to the first inlet port of the pooling bag.”

The Office Action alleges that filter 40 of Kern corresponds to the claimed “filter.” As discussed above, filter 40 has an inlet to which line 64 is coupled and an outlet to which line 66 is coupled. Because claim 40 requires “a fluid line extending **from the outlet of the filter to the first inlet port of the pooling bag,**” outer storage bag 10 of Kern would necessarily need to correspond to the claimed “flexible pooling bag.” This is because the only fluid line extending from the outlet of filter 40 is line 66 which extends to the port on outer storage bag 10. However, Kern does not disclose or suggest a “circulation line” coupled with outer storage bag 10. As such, Kern does not disclose or suggest the combination of “a filter having an inlet and an outlet, the filter being configured to filter fluid by passing fluid through the filter from the inlet to the outlet” and “a fluid line extending from the outlet of the filter to the first inlet port of the pooling bag” and “a circulation line projecting outside of the compartment of”

the pooling bag and having opposing ends in fluid communication with the compartment of the pooling bag,” as recited in claim 40.

In view of the foregoing, applicant respectfully submits that Kern does not include all of the elements of claim 40. As such, withdraw of the anticipation rejection of claim 40 in view of Kern is respectfully requested.

Claims 41-45 and 52-55 depend from claim 40 and thus incorporate the limitations thereof. As such, applicant respectfully submits that claims 41-45 and 52-55 are also not anticipated by Kern for at least the same reasons as discussed above with regard to claim 40.

Furthermore, applicant respectfully submits that many of the dependent claims are also independently distinguished over Kern. By way of example and not by limitation, Kern does not disclose or suggest “a second inlet port and a second outlet port mounted on the pooling bag and directly communicating with the compartment, the second inlet port and the second outlet port being coupled with the opposing ends of the circulation line and being spaced apart from the first inlet port and the first outlet port,” as recited in claim 52. That is, outer storage bag only has two ports formed thereon. Furthermore, inner mixing bag 12 only has three ports thereon. This is because line 58 is used for both mixing and filtering.

In addition, because the inlet of filter 40 of Kern is coupled with inner mixing bag 12, Kern does not disclose or suggest “wherein the inlet of the filter is uncoupled and the assembled pooling bag, filter and circulation line are sealed within a packing bag,” as recited in claim 54. Furthermore, because inner mixing bag 12 is disposed within the outer storage bag 10 in Kern, Kern does not disclose or suggest a “fill container being in fluid communication with the inlet of the filter and **the fill container and pooling bag being spaced apart from each other**,” as recited in claim 56.

Applicant submits that new claims 59 and 60 are distinguished over Kern for substantially the same reasons as discussed above with regard to claim 52.

No other objections or rejections are set forth in the Office Action.

E. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited prior art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited prior art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited prior art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 40-45 and 52-60 as amended and presented herein.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 19th day of June 2009.

Respectfully submitted,

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